



September 4, 2015

Frank Biba, Chief of Environmental Programs  
City of Annapolis  
Department of Neighborhood & Environmental Program  
145 Gorman Street, 3<sup>rd</sup> Floor  
Annapolis, MD 21401

**Re: FOREST CONSERVATION ACT VARIANCE REQUEST  
FOR SPECIMEN TREE REMOVAL  
BAY VILLAGE ASSISTED LIVING – LOT 4  
FCP 2015-XXX**

Dear Mr. Biba:

The purpose of this letter is to formally request a variance in accordance with the Natural Resources Article of Annotated Code of Maryland for the above referenced development. A copy of the Forest Conservation Plans are enclosed for your use in reviewing the variance request.

Natural Resources Article Title 5, Subtitle 16, Sections 5-1607 (c) (2) states that certain trees, shrubs, plants, and specific areas shall be considered priority for retention and protection, and that the applicant will need to demonstrate that they qualify for a variance in order to be removed. Any tree that is equal to or greater than 30" diameter, when measured at 4 feet above the base of the trunk, requires a variance for removal. Subsequently, based on the pending Forest Conservation Plan (FCP 2015-XXX) the applicant is requesting a variance to remove tree ST-22 and ST-91. Tree ST-22 is located inside the limit of disturbance (LOD) and will be impacted by proposed grading/development activities. Tree ST-91 while not located within the LOD, is in poor condition with a large cavity and would present a safety hazard to the development and surrounding trees slated for preservation, therefore the removal is included in our request.

A summary of each of the trees to be removed requiring a variance are as follows:

Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.

## **ALTERNATIVES ANALYSIS**

The tree is located within the disturbed area of the proposed fire lane/loading area serving the lower floor of the proposed building. Being that the SWM pond is located on the eastern end of the site the location of this access is in the best possible location of the site as well as serving a dual purpose to provide perimeter fire fighting accessibility for the fire department.

**TREE # ST-B**

**DESCRIPTION**

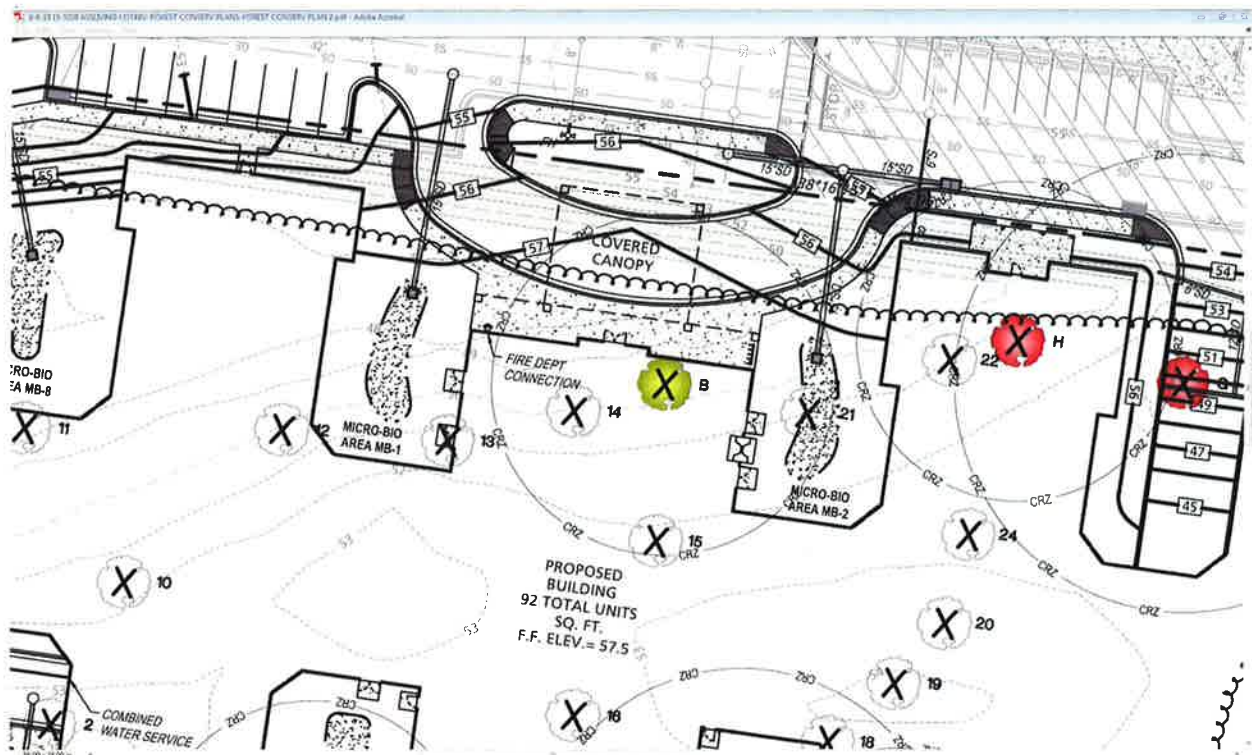
32" Yellow Poplar

**CONDITION**

FAIR

Tree has vine cover, small dead wood , included bark, weak union and in a stressed condition

**PLAN VIEW LOCATION**



**REASON FOR REMOVAL**

This tree is located in the area of the front entry and drop off area of the site along Bay Village Drive.

Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.

## **ALTERNATIVES ANALYSIS**

The tree is located within the building footprint and based on the attached site justification statement there is no alternative location of the building that could be proposed to save this tree.

**TREE # ST-F**

**DESCRIPTION**

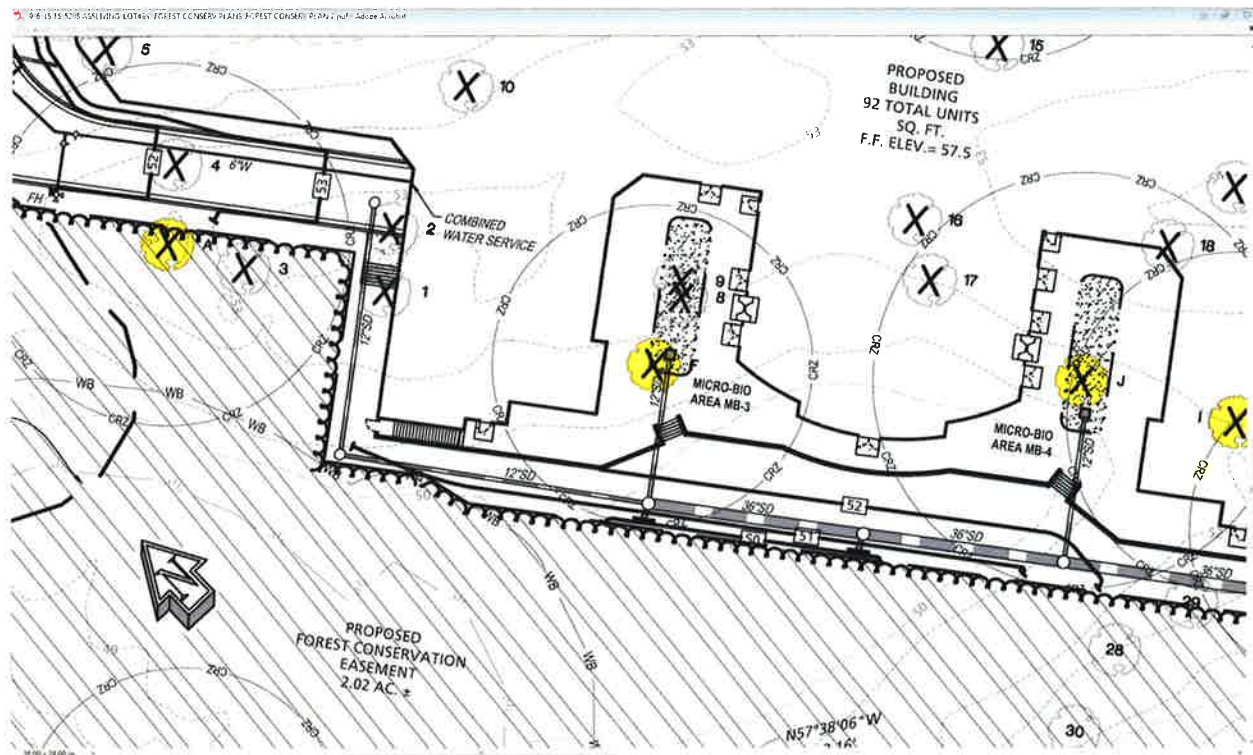
30" Yellow Poplar

**CONDITION**

FAIR

Tree is one-sided, large dead wood

**PLAN VIEW LOCATION**



**REASON FOR REMOVAL**

This tree is located in the rear of the building in a courtyard area which will have to much grading to save the tree..

Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.

## **ALTERNATIVES ANALYSIS**

The tree is located within the building footprint and based on the attached site justification statement there is no alternative location of the building that could be proposed to save this tree.



Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.



## **ALTERNATIVES ANALYSIS**

The tree is located within the building footprint access to the lower level parking area and based on the attached site justification statement there is no alternative location of the building that could be proposed to save this tree.

**TREE #    ST-H**

## DESCRIPTION

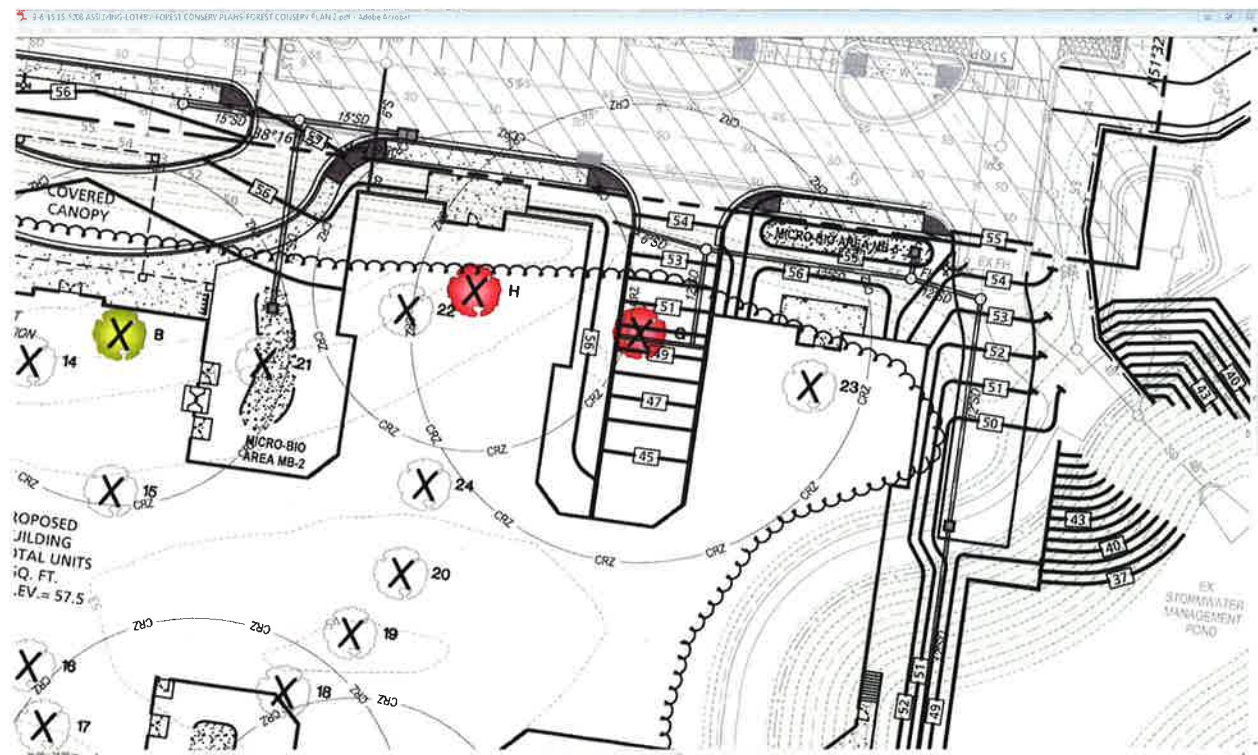
## 30" Yellow Poplar

## CONDITION

POOR

Tree is co-dominant at 30", recent grading in root zone, broken limbs, vine cover, included bark, weak union, narrow crown

### PLAN VIEW LOCATION



### REASON FOR REMOVAL

This tree is located in the area of the building along Bay Village Drive.

Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.

## **ALTERNATIVES ANALYSIS**

The tree is located within the building footprint and based on the attached site justification statement there is no alternative location of the building that could be proposed to save this tree.

**TREE # ST-I**

**DESCRIPTION**

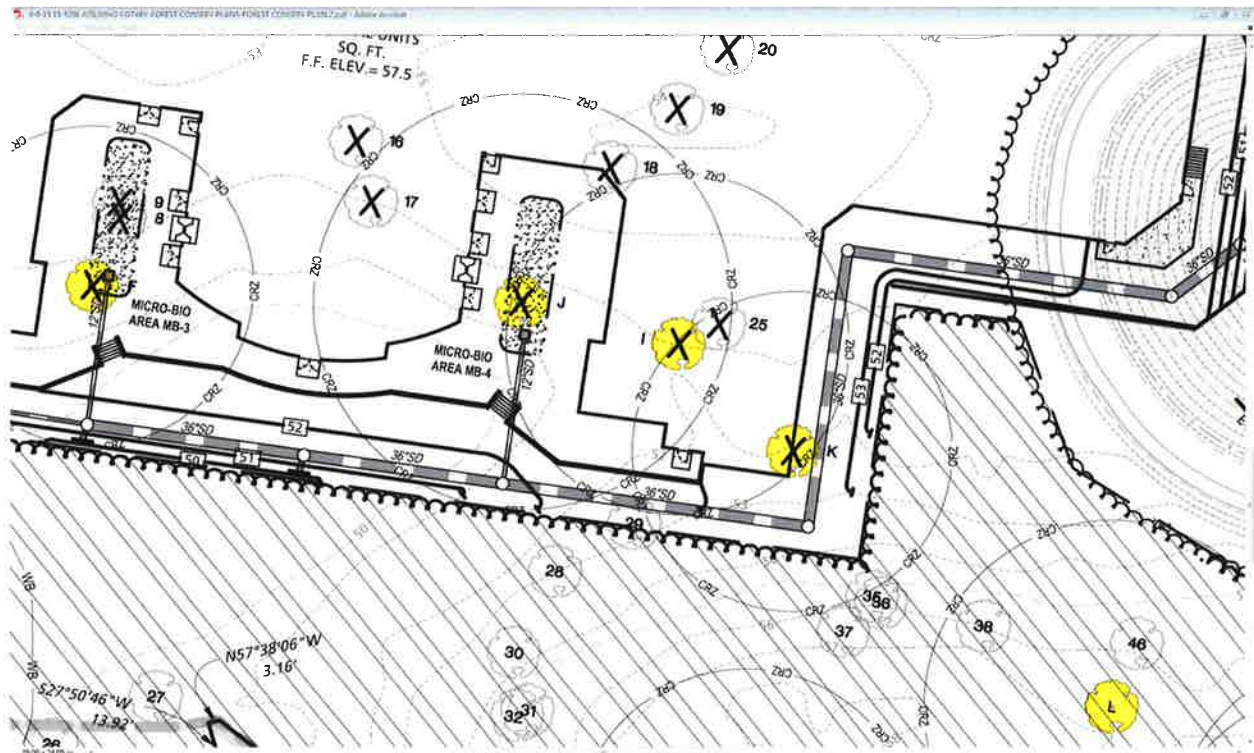
32" Yellow Poplar

**CONDITION**

FAIR

Tree has broken limbs and vine cover

**PLAN VIEW LOCATION**



**REASON FOR REMOVAL**

This tree is located in the rear area of the building.

Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.

**ALTERNATIVES ANALYSIS**

The tree is located within the building footprint and based on the attached site justification statement there is no alternative location of the building that could be proposed to save this tree.

## TREE # ST-J

### DESCRIPTION

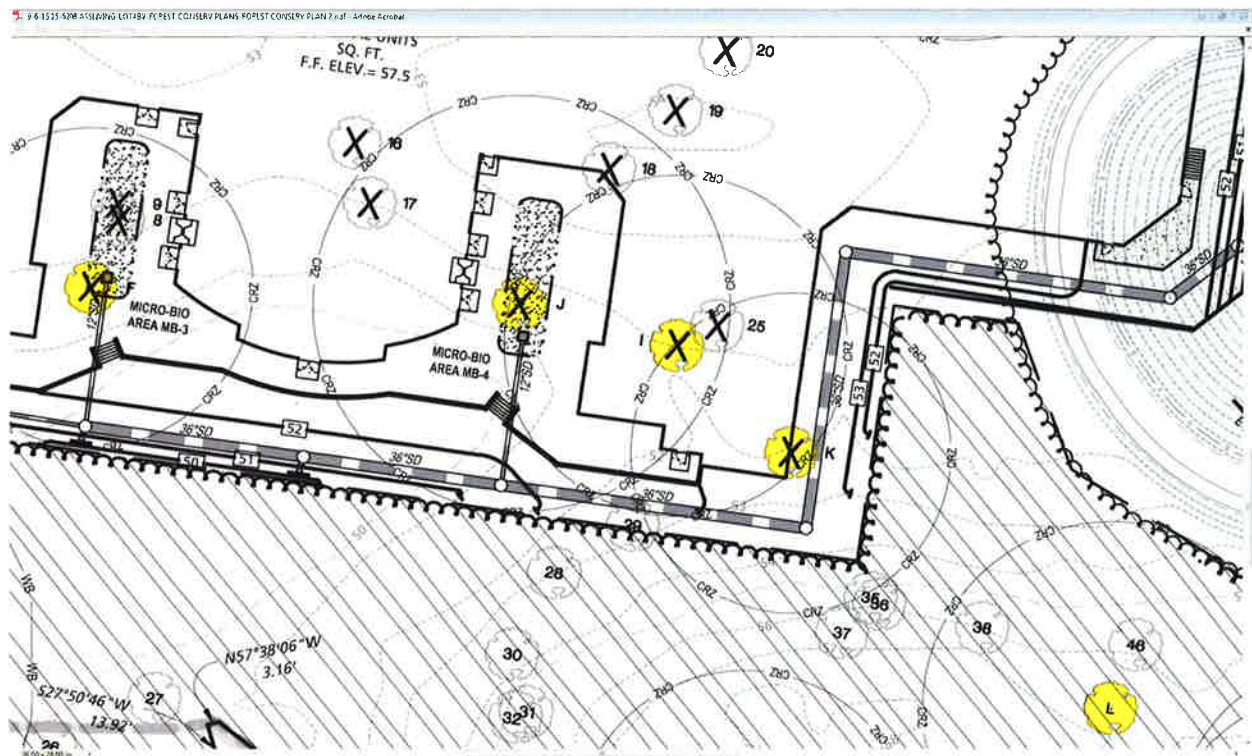
39" Yellow Poplar

### CONDITION

FAIR

Tree has a co-dominant @ 8 feet, included bark, some broken limbs, and full crown

### PLAN VIEW LOCATION



### REASON FOR REMOVAL

This tree is located in the area of the front entry and drop off area of the site along Bay Village Drive.

Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.

## **ALTERNATIVES ANALYSIS**

The tree is located within the building footprint and based on the attached site justification statement there is no alternative location of the building that could be proposed to save this tree.



**TREE # ST-K**

**DESCRIPTION**

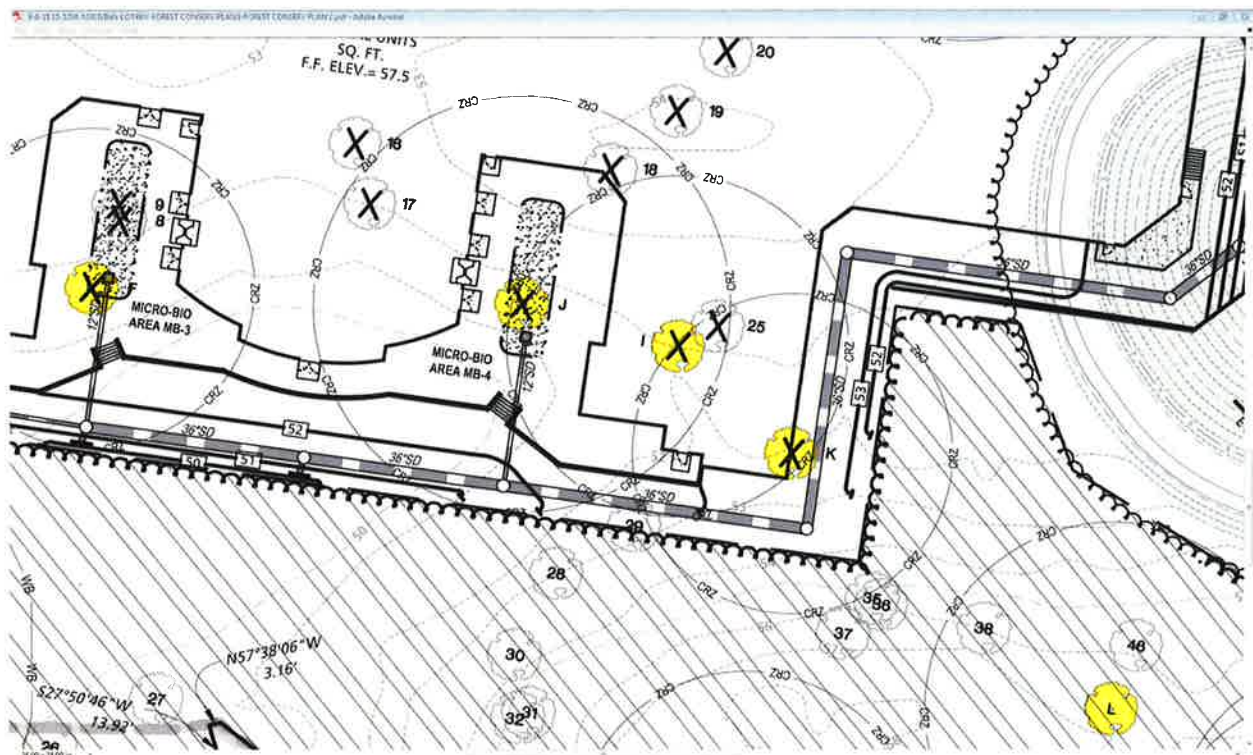
30" Yellow Poplar

**CONDITION**

FAIR

Tree has an American holly growing out of the base (included), stressed, and small dead wood.

**PLAN VIEW LOCATION**



**REASON FOR REMOVAL**

This tree is located in the area of the front entry and drop off area of the site along Bay Village Drive.

Refer to attached justification statement for the reasoning on why the building is located and sized as shown on the FCP plans which requires this specimen tree removal.

## **ALTERNATIVES ANALYSIS**

The tree is located within the building footprint and based on the attached site justification statement there is no alternative location of the building that could be proposed to save this tree.

The following describes the above requested variances in further detail and provides additional justification in accordance with COMAR 08.19.04.10:

A. An applicant may request a variance from this subtitle or the requirements of Natural Resources Article, §§5-1601---5-1612, Annotated Code of Maryland, if the applicant demonstrates that enforcement would result in unwarranted hardship to the applicant.

B. An applicant for a variance shall:

- (1) Describe the special conditions peculiar to the property which would cause the unwarranted hardship;

**Comment: Refer to attached project justification statement**

- (2) Describe how enforcement of these rules will deprive the applicant of rights commonly enjoyed by others in similar areas;

**Comment: The Applicant has completed alternatives analysis for each tree proposed to be removed, and has developed the most sensitive approach to preserving those trees that are worthy of preservation. Other similarly zoned properties that encounter trees in a similar condition and in a similar location on a site would be provided the same considerations during the review of the required variance application. Furthermore, trees with similar circumstances on other properties are routinely granted variance for removal.**

- (3) Verify that the granting of this variance will not confer on the applicant a special privilege that would be denied to other applicants;

**Comment: Granting this variance is consistent with past grants of variances and thus will not confer a special privilege to the applicant as compared to others. The applicant is proposing to remove eight (8) trees that are in poor or fair condition and pose a risk to property, declining health and does not warrant preservation. Therefore, no special privilege is afforded this applicant.**

- (4) Verify that the variance request is not based on conditions or circumstances which are the result of actions by the applicant.

**Comment: This variance is not the result of actions by the applicant. The removal of the eight (8) trees are due to their condition and location on the site, as well as the limitations for site design based on other regulated environmental/planning/zoning features. See attached justification statement.**

- (5) Verify that the variance request does not arise from a condition relating to land or building use, either permitted or nonconforming, on a neighboring property; and

**Comment: The request to remove the eight (8) trees does not arise from any condition on a neighboring property.**

- (6) Verify that the granting of a variance will not adversely affect water quality.

**Comment: To ensure that there are no adverse effects on waterways in the immediate area of the project or the watershed in general, all grading and construction will be in accordance with an MDE-approved Erosion and Sediment Control Plan that provides for adequate sediment and erosion control, and post disturbance stormwater management. Furthermore, the site development will meet all of the current State/City stormwater management regulations as it relates to water quality/quantity control.**

I trust that the above information will meet with your approval and a favorable variance decision can be issued to the applicant. If you should have any questions require any additional information please do not hesitate to contact me at 410-897-9290.

Sincerely,  
**Bay Engineering, Inc.**

Terry Schuman, P.E.

Cc: Jon Grant – Bay Village Assisted Living, LLC  
Jon Arason  
Mike Klebasko – WSSI  
Anthony Christhlf  
Pat Faux- Faux Group